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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,149	09/01/2000	Peter Guthmann	3916/59156-082	5899

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EXAMINER

NGUYEN, JIMMY T

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/654,149

Applicant(s)

GUTHMANN ET AL.

Examiner

Jimmy T Nguyen

Art Unit

3725

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 August 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1, 3-6, 8-13, and 15-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1, 3-4, 6, 8-13 and 15-16 is/are rejected.

7) Claim(s) 5 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on August 28, 2002 is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

 1. Certified copies of the priority documents have been received.

 2. Certified copies of the priority documents have been received in Application No. _____.

 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s) _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Response to Amendment

The amendment filed on August 28, 2002 under 37 CFR 1.131 has been considered and an action on the merits follows.

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on August 28, 2002 have been acknowledged and approved.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-13 and 15-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 11, the specification does not support “engaging a pawl with the latch to lock the two-part housing” (next to last line). The specification discloses a latch as a pawl (see Applicant’s amendment, page 8).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 recites the limitation "the latching mechanism" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 6, 8-9, and as best understood, claims 11-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunther et al. (USPN 4,770,093) in view of Schaible (USPN 4,557,189) for substantially the same reasons set forth in the last Office action.

With regard to amended claims 1 and 4, applicant added the limitations of a second arm of the bell crank is operatively engageable with a latching mechanism on a frontal part of the housing, a fixed stop is arranged on the tailgate below the second arm of the bell crank, and resilient means for increasing a latching force on the latching mechanism as a bale in the bailing chamber increases in size. Gunther does not disclose the above limitations. However, Schaible teaches a second arm (7) of the bell crank is operatively engageable with a latching mechanism (8) ^{on} _A a frontal part of the housing, a fixed stop (not labeled, see figure 1) is arranged on the tailgate, and a resilient means (6)

for increasing a latching force on the latching mechanism as bale size increased. It would have been obvious to the skilled artisan at the time the invention was made to provide Gunther with the type of locking mechanism as taught by Schaible to improve the locking/unlocking mechanism of the tailgate to the frontal housing part of the baler.

With regard to amended claims 6 and 9, applicant added the limitation of a second arm of the bell crank is connected to a latch/pawl, which is engageable with a keeper disposed on a frontal part of the housing, a fixed stop is arranged on the tailgate below the second arm of the bell crank, and resilient means for increasing a latching force on the keeper as a bale in the bailing chamber increases in size. Gunther does not disclose the above limitations. However, Schaible teaches a second arm (7) of the bell crank is connected to a latch/pawl (8), which is engageable with a keeper disposed on a frontal part of the housing, a fixed stop (not labeled, see figure 1) is arranged on the tailgate, and a resilient means (6) for increasing a latching force on the keeper as bale size increased. It would have been obvious to the skilled artisan at the time the invention was made to provide Gunther with the type of locking mechanism as taught by Schaible to improve the locking/unlocking mechanism of the tailgate to the frontal housing part of the baler.

With regard to claims 11-13 and 15, the method claims correspond to the apparatus claims and are similarly rejected

Response to Arguments

Applicant's arguments filed August 28, 2002 have been fully considered but they are not persuasive.

The Applicant's argument that neither Gunther nor Schaible disclose the use of resilient means for increasing a latching force as a bale increases in size is not found ~~not~~ persuasive in light of the new grounds of rejection necessitated by Applicant's amendment.

Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The art of record, considered alone or in combination, neither anticipates nor renders obvious a round baler having means for increasing a latching force on a latching mechanism/keeper/pawl includes a tension spring arranged between a pivoting arm and a fixed mounting point on the frame of the baler, in combination with the rest of the claimed limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Nguyen whose telephone number is (703) 305-5304. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

JTNguyen
October 15, 2002



ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700